

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 5, 2010
POSITION: Neutral

BILL NUMBER: SB 1433
AUTHOR: M. Leno
RELATED BILLS: AB 846 (Torrico)

BILL SUMMARY: Air Pollution Penalties: Inflation Adjustments

This bill would require the Air Resources Board (Air Board) to annually adjust for inflation the maximum values for specific non-vehicular source fines assessed by the Air Board and by local air districts beginning March 1, 2011. The inflation adjustment would be calculated using 2010 as the base year, and adjusting that year's amounts based upon the California Consumer Price Index released in January 2011 by the Department of Industrial Relations.

The bill also would require the Air Board to publish the inflation-adjusted maximum penalties on its Internet web site on March 1, 2011, and annually thereafter.

FISCAL SUMMARY

The Air Board estimates that the cost of annually adjusting the specified maximum stationary source fines and posting that information to the Air Board's web site would be minor and absorbable. The Department of Finance (Finance) concurs.

Annual penalty revenues to the APCF average \$6.5 million. The Air Board estimates the fines that would be impacted by this bill comprise, on average, 70 percent of the penalties collected annually. The Air Board estimates increased stationary source fine revenue of \$150,000 Air Pollution Control Fund (APCF) annually from indexing the specified maximum fines to inflation, based upon average annual non-vehicular penalties of \$4.6 million and a three percent inflation factor. Finance notes that historically, annual APCF penalty revenues have ranged from a low of \$1.3 million to up to \$15 million.

COMMENTS

Finance is neutral on this bill. We note that currently the US Environmental Protection Agency (US EPA) adjusts the statutory civil monetary penalties for inflation. Specifically, the US EPA reviews its civil monetary penalties at least once every four years and adjusts the penalties as necessary for inflation according to a specified formula.

The non-vehicular penalties that this bill would index to inflation were established in legislation and are typically assessed by local air pollution control districts. The amounts in the affected sections range from \$1,000 strict liability fines established in the early 1980's to \$1 million fines established in 1992 for corporations that are responsible for great bodily injury or death related to a willful or intentional release of an air contaminant.

Because the authorizing legislation did not contain provisions to adjust the maximum fines for inflation, there exists the potential that the current fines no longer provide the level of deterrent intended at the time the penalty statutes were enacted. This bill is intended to ensure the penalty amounts provide the intended deterrent, so that businesses do not come to see the fine amounts as merely the cost of doing business.

Analyst/Principal (0623) K. DaRosa	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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BILL NUMBER

SB 1433

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
1256/Othr Reg Fee	RV	No	U	\$75	U	\$150		--	0115
<u>Fund Code</u>	<u>Title</u>								
0115	Air Pollution Control Fund								